



House of Representatives

General Assembly

File No. 74

February Session, 2018

House Bill No. 5329

House of Representatives, March 28, 2018

The Committee on Children reported through REP. URBAN of the 43rd Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***AN ACT CONCERNING THE USE OF FLAME RETARDANT
CHEMICALS IN CHILDREN'S PRODUCTS AND UPHOLSTERED
RESIDENTIAL FURNITURE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2018*) (a) For the purposes of this
2 section:

3 (1) "Children's product" means a product, or article used as a
4 component of a product, designed or intended primarily for use by or
5 for children twelve years of age or younger, including, but not limited
6 to, clothing, toys, nursing pillows, crib mattresses, changing pads and
7 strollers. "Children's product" shall not include food, beverages,
8 dietary supplements, pharmaceutical products, biologics, consumer
9 electronics, off-highway motorcycles, all-terrain vehicles, children's
10 toys that are subject to the most recent version of the American Society
11 for Testing and Materials F963, Standard Consumer Safety
12 Specification for Toy Safety, devices as defined by the federal Food,
13 Drug and Cosmetic Act, 21 USC 321(h) or products governed by

14 federal motor vehicle standards contained in 49 CFR 571.213 and 49
15 CFR 571.302; and

16 (2) "Upholstered residential furniture" means furniture with
17 padding, coverings and cushions intended and sold for use in the
18 home or places of lodging.

19 (b) On and after July 1, 2019, no manufacturer, wholesaler or retailer
20 may manufacture, knowingly sell, offer for sale or distribute for use in
21 this state any children's product or upholstered residential furniture
22 that contains one hundred parts per million or greater of any
23 organohalogen flame retardant chemical, including, but not limited to,
24 chemicals containing the element bromine and chlorine bonded to a
25 carbon that is added to a plastic, foam or textile.

26 (c) Not later than April 1, 2019, a manufacturer of a children's
27 product or upholstered residential furniture prohibited from
28 manufacture, sale or distribution pursuant to subsection (b) of this
29 section shall notify persons or entities that sell such manufacturer's
30 products or furniture in this state of the provisions of this section.

31 (d) The provisions of this section shall not apply to an individual
32 who, for personal, family or household purposes, uses, offers for
33 resale, resells or distributes children's products or upholstered
34 residential furniture.

This act shall take effect as follows and shall amend the following sections:

Section 1	July 1, 2018	New section
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KID *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Consumer Protection, Dept.	GF - Cost	21,633	21,633
State Comptroller - Fringe Benefits ¹	GF - Cost	5,589	5,589

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill would require the Department of Consumer Protection (DCP) to test the compliance of children's products and upholstered furniture and results in a cost to the state. As the agency does not currently conduct similar testing, DCP would need \$3,000 to purchase the products, \$3,250 to test them, \$21,633 for a part-time employee to carry out the tests, and \$5,589 in fringe benefits for the employee.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 36.33% of payroll in FY 19 and FY 20.

OLR Bill Analysis**HB 5329*****AN ACT CONCERNING THE USE OF FLAME RETARDANT CHEMICALS IN CHILDREN'S PRODUCTS AND UPHOLSTERED RESIDENTIAL FURNITURE.*****SUMMARY**

Starting July 1, 2019, this bill prohibits a manufacturer, wholesaler, or retailer from manufacturing, knowingly selling, offering for sale, or distributing for use in Connecticut, a children's product or upholstered residential furniture with .01% (by weight) or more of an organohalogen flame retardant chemical. The banned flame retardants include those with bromine or chlorine bonded to a carbon that is added to a plastic, foam, or textile.

By April 1, 2019, manufacturers of children's products or upholstered residential furniture subject to this ban must notify persons or entities that sell them about the ban.

Individuals who, for personal, family, or household purposes, use, offer for resale, resell, or distribute children's products or upholstered residential furniture are exempt from these bans.

EFFECTIVE DATE: July 1, 2018

DEFINITIONS***Children's Product***

Under the bill, a "children's product" is a product, or an article used as a product's component, designed for or intended primarily for use by children age 12 or younger, including such things as clothing, toys, nursing pillows, crib mattresses, changing pads, and strollers.

The products do not include food, beverages, dietary supplements,

pharmaceutical products, biologics, consumer electronics, off-highway motorcycles, all-terrain vehicles, children's toys covered by the most recent version of ASTM F963, *Standard Consumer Safety Specification for Toy Safety*, “devices” as defined under the federal Food, Drug, and Cosmetic Act, or products governed by certain federal motor vehicle standards (see BACKGROUND).

Upholstered Residential Furniture

“Upholstered residential furniture” is furniture with padding, coverings, and cushions intended and sold for use in the home or places of lodging.

BACKGROUND

ASTM F963

ASTM International is a non-profit international organization that provides a forum for developing and publishing voluntary consensus standards for materials, products, systems, and services. The organization's standard ASTM F963 provides specifications for toy safety.

Under the most recent version of the standard, a “toy” is an object designed, manufactured, or marketed as a plaything for children under age 14 (ASTM F963-17 § 3.1.91). The standard excludes several articles from its provisions, such as:

1. bicycles, tricycles, non-powered scooters, recreational powered scooters, and pocket bikes;
2. sling shots, sharp-pointed darts, and non-powder guns;
3. playground equipment;
4. kites;
5. model kits and hobby and craft items in which the finished items are not primarily of play value;

6. crayons, paints, chalks, and other similar art materials;
7. constant air inflatables;
8. powered models of aircraft, rockets, boats, and land vehicles (but toy counterparts are covered); and
9. sporting and camping goods, athletic equipment, musical instruments, and furniture (but toy counterparts are covered) (ASTM F963-17 § 1.4).

The standard also exempts juvenile products, which are consumer products designed or intended primarily for use by children but not primarily for play. They include such items as bassinets and cradles, infant bath tubs, carriages and strollers, changing tables, cribs and toddler beds, gates and enclosures, high chairs, infant carriers, play yards, stationary activity centers, and walkers (ASTM F963-17 § 3.1.43).

“Devices” under the Food, Drug, and Cosmetic Act

Under the federal Food, Drug and Cosmetic Act, a “device” is an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article. It includes any component, part, or accessory that (1) does not achieve its primary purpose through chemical action within or on the body and (2) is not dependent on metabolism to achieve its primary intended purposes. These components, parts, or accessories must also be:

1. recognized in the official National Formulary or the United States Pharmacopeia or their supplements;
2. intended for use in disease or condition diagnosis or in disease cure, mitigation, treatment, or prevention; or
3. intended to affect body structure or function (21 U.S.C. § 321(h)).

Federal Motor Vehicle Regulations

Federal regulations specify burn resistance requirements for material used in motor vehicles' child restraint systems and passenger compartments (49 C.F.R. §§ 571.213 & 571.302).

COMMITTEE ACTION

Committee on Children

Joint Favorable

Yea 8 Nay 5 (03/15/2018)